

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

RICHARD JAMES JOHNSON, 1005689	§	
VS.	§	CIVIL ACTION NO. 6:10cv311
DIRECTOR, TDCJ-CID	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge John D. Love. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case as time barred.

Petitioner filed objections to the Report and says that because the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) was signed into law on April 24, 1996, the Act does not apply to him because his case is based on a 1992 conviction. The Fifth Circuit Court of Appeals has noted that claims that "would otherwise be time-barred prior to the April 24, 1996 effective date of AEDPA, now have one year after the April 24, 1996 effective date of AEDPA in which to file a § 2254 petition for collateral relief." *Flanagan v. Johnson*, 154 F.3d 196, 200 (5th Cir. 1998). Therefore, the AEDPA does apply to his case. This Court has made a *de novo* review of Petitioner's objections and determined that they lack merit

This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED WITH**

PREJUDICE;

ORDERS that Petitioner is denied a certificate of appealability; and

ORDERS that all motions not previously ruled on are denied.

So ORDERED and SIGNED this 13th day of August, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**